

Erection of 9 dwellings (Outline application with access, scale and layout for approval) (Resubmission)

Report Item No
A1

Land At Main Street Osgathorpe Loughborough Leicestershire
LE12 9TA

Application Reference
16/00043/OUT

Applicant:
Mr I. J. Bourne

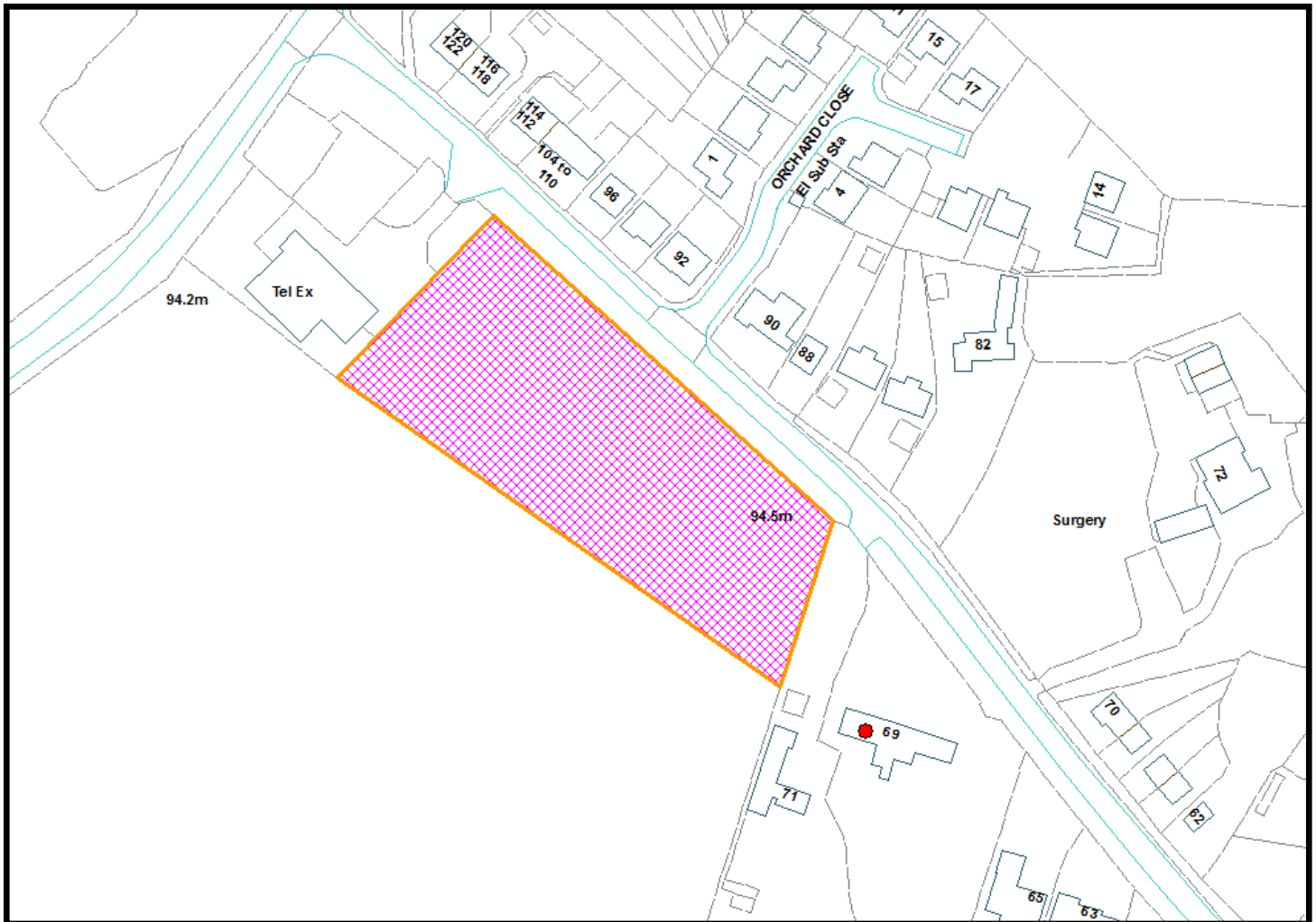
Date Registered
15 January 2016

Case Officer:
Adam Mellor

Target Decision Date
11 March 2016

Recommendation:
REFUSE

Site Location - Plan for indicative purposes only



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Executive Summary Of Proposals and Recommendation

Call In

The application has been brought to the Planning Committee at the request of Councillor Boam in order for Members to assess the sustainability of the development proposals.

Proposal

Outline planning permission is sought for the erection of nine dwellings with access, scale and layout submitted for approval at this stage on land off Main Street, Osgathorpe. The 0.59 hectare site is located on the south-western side of Main Street and is outside the defined Limits to Development as well as being within an Area of Particularly Attractive Countryside.

Consultations

A total of 23 individual representations, as well as a signed petition with 55 signatories, have been received which object to the development. Osgathorpe Parish Council also objects to the application. The County Highways Authority have objected to the application on sustainability grounds but not on highway safety grounds with all other statutory consultees raising no objections subject to the imposition of conditions on any consent granted.

Planning Policy

It is considered that the development would conflict with the core principles of the social and environmental strands of sustainability enshrined within the National Planning Policy Framework (NPPF).

Conclusion

The report above indicates that the site is a greenfield site outside Limits to Development, is located within an Area of Particularly Attractive Countryside and that Osgathorpe is not a sustainable settlement.

Policies S3 and E22 of the adopted North West Leicestershire District Council Local Plan ("the Local Plan") cannot be relied upon to justify a refusal of the application, given that the Council cannot demonstrate a five year housing land supply. Whilst this is the case, the release of the land for residential development would not accord with the environmental sustainability strand of the NPPF as outlined at Paragraph 7, given that future occupants would be heavily reliant on the private car to access basic services, an unsustainable form of transport, and would therefore not support the approach to a low carbon economy. Given these circumstances the proposed development of the site is unacceptable in principle and would conflict with the environmental strand of sustainability.

In addition, Osgathorpe would not be considered a sustainable settlement given the lack of services within the area. As such the development of the site would not provide suitable access to an appropriate level of services which would contribute towards people's day to day needs. As a result of the development would also conflict with the social strand of sustainability enshrined within the NPPF again outlined at Paragraph 7.

Any limited contribution this development would make towards the Council's five year housing land supply, as well as the provision of three affordable housing units, are also not considered

sufficient grounds to outweigh such conflicts which exist in respect of the key principles of the NPPF as detailed above.

It is therefore recommended that the application be refused.

RECOMMENDATION:-

REFUSE

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

Outline planning permission is sought for the erection of nine dwellings with access, scale and layout submitted for approval at this stage on land off Main Street, Osgathorpe. The 0.59 hectare site is located on the south-western side of Main Street and is outside the defined Limits to Development as well as being within an area of Particularly Attractive Countryside. The surrounding area consists of residential properties to the north-east and south-east, a telephone exchange to the north-west and open countryside to the south-west.

This application is a resubmission of application reference 15/00871/OUT which was withdrawn on the 30th October 2015. It is specified that the application has been resubmitted as the Council cannot demonstrate a five year supply of housing following the conclusion of a recent appeal decision at Greenhill Road (ref: APP/G2435/W/15/3005052).

The land in question is currently an arable field. It is identified on the submitted layout that five dwellings (Plots 5 - 9) would be positioned parallel to Main Street with distances of between 20.0 metres (Plot 5) and 17.0 metres (Plot 9) from this highway. Plots 1 - 4 would be perpendicular to Main Street with Plot 1 being set 11.8 metres from the highway and Plot 4 being set 45.5 metres away. It is identified in the supporting planning statement that Plots 1 - 4 would be two bedroom properties with floor areas of 60 square metres, Plots 5 - 6 would be three bedroom properties with floor areas of 102 square metres and Plots 7 - 9 would be four bedroom properties with floor areas of 162 square metres. The illustrative street scene drawings also show that Plots 1 - 6 would be single storey detached dwellings with overall heights of 5.9 metres with Plots 7 - 9 being two-storey (with habitable accommodation in the roof slope) detached dwellings with overall heights of 6.9 metres. Vehicular access into the site would be achieved from Main Street via a natural gap which exists within the hedgerow.

A Planning Statement, incorporating a Design and Access Statement, Extended Phase 1 Survey, Drainage Assessment Report and Highways Impact Statement have been submitted in support of the application.

No relevant planning history was found.

2. Publicity

38 Neighbours have been notified (Date of last notification 19 January 2016)

Site Notice displayed 22 January 2016

Press Notice published 27 January 2016

3. Consultations

Osgathorpe Parish Council consulted 19 January 2016

Leicestershire County Highways Authority consulted 19 January 2016

Severn Trent Water consulted 19 January 2016

NWLDC Head of Environmental Protection consulted 10 February 2016

Leicestershire County Archaeologist consulted 19 January 2016

Leicestershire County Ecologist consulted 19 January 2016

NWLDC Head of Housing consulted 19 January 2016

Leicestershire County Lead Flood Authority consulted 19 January 2016

4. Summary of Representations Received

The following summary of representations is provided. Members will note that full copies of correspondence received are available on the planning file.

Leicestershire County Council - Archaeology has no objections.

Leicestershire County Council - Ecology has no objections subject to ensuring that any vegetation to be removed is undertaken outside the bird nesting season and that the roadside hedge (with the exception of the gap proposed for access) be retained.

Leicestershire County Council - Highways Authority objects to the application on the basis of the sustainability of the settlement but raises no objections on highway safety grounds.

Leicestershire County Council - Lead Local Flood Authority advises that their standing advice should be considered and relevant notes to the applicant imposed on any consent granted.

NWLDC - Environmental Protection has no objections.

NWLDC - Environmental Protection (Contaminated Land) has no objections subject to the inclusion of contaminated land conditions on any consent granted due to the use of the neighbouring site as a telephone exchange and possible presence of made ground.

NWLDC - Affordable Housing Enabler has no objections and supports the identified Plots and form of the dwellings proposed for affordable purposes.

Osgathorpe Parish Council objects to the application on the following key grounds:-

- Lack of infrastructure;
- Main Street area is impacted by over land flows and proposal would increase surface water run-off thereby resulting in flooding implications;
- Soakaways would not be an effective means of addressing surface water run-off given that Osgathorpe is within the 'low permeability' category for surface water run-off;
- Osgathorpe does not require the provision of further affordable housing given the amount which is already available. The proposed dwellings should be 'local need dwellings';
- Development should contribute towards improving village amenities and facilities;
- There is no further need for development due to the Council having a five year supply of housing;
- Safety issues associated with the on-street parking of vehicles on Main Street;
- Adverse impact on residential amenities and loss of the view from properties on Main Street;
- If approval is given than the building materials and designs are conducive to their surroundings;

In addition to the above, the Parish Council have also asked the question of who would be responsible for the maintenance of hedgerows and ditches around the properties, and where would the oil tanks be situated to reduce visual impacts and ensure residential safety.

Severn Trent Water has no objection subject to the inclusion of conditions on any consent granted.

Third Party Representations

23 no. representations objecting to the application have been received with the comments raised summarised as follows: -

Infrastructure

- The village is unsustainable and does not have the economic or social infrastructure to sustain further development
- Development would progress additional development into the open fields which would be detrimental to the rural environment
- There is no investment in the village infrastructure or amenities the bus route is under threat and there is no play area
- The Dawsons Road development will provide the required level of new housing required for the settlement and therefore there is no benefit to this development
- There has been a 23% increase in dwellings since 2000 without the provision of any further infrastructure to support this development
- This is prime agricultural land and should not be built upon, allowing development encourages farmers to go for short term profits by building dwellings rather than farming

Residential Amenity

- The land is currently agricultural and to develop on it will result in a loss of privacy due to overlooking impacts on to my home and garden
- There would be an increase in both light and noise pollution from the proposal which would be detrimental to amenities
- Provision of dwellings will result in the loss of the view onto open fields
- The tranquillity of the neighbourhood would be affected
- Trees should not be proposed to the rear boundaries as it will decrease the amount of sunlight to the gardens and the properties themselves
- Development will conflict with Article 8 of the Human Rights Act 1998 which sets out that private and family life should not only encompass the home but also the surroundings

Demand for Housing

- Whilst the Council cannot demonstrate a five year housing land supply there is still sufficient brownfield land available to meet the demand without using greenfield sites;
- There are sufficient houses available of comparable size and stature for sale within the village to negate the need for further development
- The site is a greenfield site and as such should not be built upon with it being important to protect open areas within settlements which contribute positively to the character of the settlement concerned, its streetscene or its setting or approaches
- The site is outside the defined Limits to Development
- Further development on agricultural land will set a dangerous precedent and brownfield sites should be prioritised
- Development would not be affordable to low income families

Highway Safety

- There are issues with traffic and parking within the village in the late afternoon, evening and early morning which reduce the width of Main Street to a single carriageway
- The traffic survey was undertaken at the wrong time of the day to be accurate in respect of highway safety issues

- Insufficient off-street parking for the development will be made available
- Highway network is not adequate enough to cater for the additional movements of vehicles
- Parking on Main Street needs to be restricted

Design

- If the application is permitted careful consideration should be given to the appearance of the dwellings so that they enhance the character of the village so differing designs for each property should be considered, smaller windows and the materials of construction;
- Development is contrary to the Osgathorpe Village Design Statement
- Development would diminish the present open character of Main Street and would be detrimental to the area of particularly attractive countryside
- Proposal would not improve the character or quality of the area and the way it functions;
- Proposal would constitute inappropriate 'ribbon' development

Other Matters

- Development will impact on property values
- Properties in the area are subjected to flooding impacts with the use of the existing land drain for rain water disposal contributing to this issue
- There is a history of developers seeking outline planning approval for one form of development and subsequently changing it at a later date
- There does not appear to be adequate space for oil tanks for heating purposes to be installed

A signed collective objection with 55 signatories has also been submitted raising an objection to the application on the following grounds: *"that it will have an adverse effect on the character and infrastructure of the village, in what is already classed as an unsustainable location, and will add further traffic issues in what is already a hazardous and dangerous location."*

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

The NPPF (Paragraph 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

Save where stated otherwise, the policies of the North West Leicestershire Local Plan as listed in the relevant section below are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application.

The following sections of the NPPF are considered relevant to the determination of this application:

- Paragraph 10 (Achieving sustainable development);
- Paragraph 14 (Presumption in favour of sustainable development);
- Paragraph 17 (Core planning principles);
- Paragraph 28 (Supporting a prosperous rural economy);
- Paragraph 32 (Promoting sustainable transport);

Paragraph 39 (Promoting sustainable transport);
Paragraph 49 (Delivering a wide choice of high quality homes);
Paragraph 53 (Delivering a wide choice of high quality homes);
Paragraph 55 (Delivering a wide choice of high quality homes);
Paragraph 57 (Requiring good design);
Paragraph 60 (Requiring good design);
Paragraph 61 (Requiring good design);
Paragraph 64 (Requiring good design);
Paragraph 75 (Promoting healthy communities);
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);
Paragraph 109 (Conserving and enhancing the natural environment);
Paragraph 112 (Conserving and enhancing the natural environment);
Paragraph 118 (Conserving and enhancing the natural environment);
Paragraph 120 (Conserving and enhancing the natural environment);
Paragraph 121 (Conserving and enhancing the natural environment);
Paragraph 123 (Conserving and enhancing the natural environment);
Paragraph 141 (Conserving and enhancing the historic environment);
Paragraph 203 (Planning conditions and obligations);
Paragraph 204 (Planning conditions and obligations);
Paragraph 206 (Planning conditions and obligations);

Adopted North West Leicestershire Local Plan (2002)

The application site is outside the Limits to Development as defined in the adopted North West Leicestershire Local Plan. The following Local Plan policies are relevant to this application:

Policy S3 - Countryside;
Policy E3 - Residential Amenities;
Policy E4 - Design;
Policy E7 - Landscaping;
Policy E22 - Areas of Particularly Attractive Countryside;
Policy E7 - Landscaping;
Policy T3 - Highway Standards;
Policy T8 - Parking;
Policy H4/1 - Housing Land Release;
Policy H6 - Housing Density;
Policy H7 - Housing Design;
Policy H8 - Affordable Housing;

Draft Consultation North West Leicestershire Local Plan

On 15 September 2015 the District Council's Full Council considered a draft Local Plan and resolved to approve the draft Local Plan for consultation. The draft policies listed below are considered relevant to this application. However, in view of the very early stage to which the draft Local Plan has progressed, only very limited weight can be attributed to its policies at this stage.

Policy S1 - Presumption in Favour of Sustainable Development;
Policy S2 - Future Housing and Economic Development Needs;
Policy S3 - Settlement Hierarchy;
Policy S4 - Countryside;
Policy S5 - Design of New Development;
Policy H4 - Affordable Housing;
Policy H6 - House Types and Mix;

Policy IF4 - Transport Infrastructure and New Development;
Policy IF7 - Parking Provision and New Development;
Policy En1 - Nature Conservation;
Policy En6 - Land and Air Quality;
Policy Cc2 - Sustainable Design and Construction;
Policy Cc3 - Flood Risk;
Policy Cc4 - Water - Sustainable Drainage Systems;

Other Policies

National Planning Practice Guidance

In March 2014 the Government published National Planning Practice Guidance (NPPG) to supplement the NPPF. The NPPG does not change national policy but offers practical guidance as to how such policy is to be applied.

Affordable Housing Supplementary Planning Document

The Council adopted a revised Affordable Housing Supplementary Planning Document ("the SPD") on 18th January 2011 and this indicates that the amount of affordable housing sought on all sites of 5 or more dwellings in areas such as Osgathorpe will be 30%.

6Cs Design Guide (Leicestershire County Council)

The 6Cs Design Guide sets out the County Highway Authority's requirements in respect of the design and layout of new developments.

Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System)

Circular 06/2005 sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites. It advises that they should have regard to the Council Directive on the conservation of wild birds (79/409/EEC) and the Council Directive on the conservation of natural habitats and of wild fauna and flora (92/43/EEC) in the exercise of their planning functions in order to fulfil the requirements of the Directives in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites.

6. Assessment

Principle of the Development

Insofar as the principle of development is concerned, and in accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the Development Plan which, in this instance, includes the adopted North West Leicestershire Local Plan (2002 (as amended)).

With regards to the application site it is noted that it lies outside the defined Limits to Development with residential dwellings not being a form of development permitted by Policy S3 of the adopted Local Plan. The site is also within an Area of Particularly Attractive Countryside, as highlighted under Policy E22 of the adopted Local Plan, which is considered to represent the most significant and important rural landscape locally.

The NPPF requires that the Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The Inspector's decision concerning the Greenhill Road appeal sets out that the Local Planning Authority is currently unable to demonstrate a five year supply of housing land. This means that

"saved" Local Plan policies that are concerned with housing supply, such as S3 and H4/1, must be considered to be out of date, and the weight afforded to them when determining planning applications should be reduced accordingly. The NPPF includes a clear presumption in favour of sustainable development, which taken together with the current inability to demonstrate a five year supply, indicates that planning permission for new homes should normally be granted in sustainable locations.

It is also important to bear in mind that the Limits to Development, as defined in the adopted Local Plan, were drawn having regard to housing requirements only up until the end of that Plan Period (i.e. to 2006). It is therefore considered inevitable that greenfield land will need to be released to maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the adopted Local Plan. In this respect it is acknowledged that the site borders the Limits to Development on its north-eastern, north-western and south-eastern boundaries.

In assessing and determining the application it also needs to be accepted that the NPPF's provisions do not specifically seek to preclude development within the countryside, and consideration must therefore be given to whether the proposals constitute sustainable development given the presumption in favour of such as set out in the NPPF.

With regards to the sustainability credentials of the site, it is noted that in previous assessments of applications reference has been given to the Department of Transport (DoT) statistics which outlined that the average trip length undertaken by foot would be 1000.0 metres. However, in a recent appeal decision relating to a residential development on Willesley Road in Ashby De La Zouch (ref: APP/G2435/W/15/3027396) the Inspector concluded that such a statistic does not take into account those people who would walk but are put off by such distances and choose to travel by alternative means. In the aforementioned appeal, reference was made to the Institute of Highways and Transportation document '*Providing for Journeys on Foot*' and in respect of a rural environment the acceptable walking distance to services would be 800 metres and 1000 metres for a school. On the basis of these distances a public house (Storey Arms Public House) and bus stop (Main Street) would be within an acceptable walking distance with such walks being possible along maintained footpaths. Given that the services which are available would not provide the goods that people would rely on to meet their 'day to day' needs (i.e. school and a shop) the settlement of Osgathorpe would not be considered sustainable. In respect of the bus service which serves the village (Paul S Winson Coaches no. 129 - Ashby De La Zouch to Loughborough) the first bus arrives into the village at 07:47 with the last bus to Loughborough departing at 16:50 and the last bus returning to Ashby arriving at 18:05, this service runs Monday to Saturday with only five buses during the operational hours which means the service is less than hourly.

Socially the development would benefit from the provision of nine dwellings which would include three affordable properties with a mix of 2, 3 and 4 bedroom properties being supported and contributing to the housing needs of different groups in the community (albeit this provision is questioned by Osgathorpe Parish Council).

However, the social role, as defined in Paragraph 7 of the NPPF, requires the supply of housing to be linked to accessible local services which meet the needs of the community and support its health, social and cultural wellbeing. As identified above, Osgathorpe does not benefit from many services and as such residents would consequently be relatively isolated from shops, medical services and cultural or recreational facilities. Belton, around 1.8 miles from the site, would be the nearest settlement which would provide a shop and other services (including a doctor's surgery) with the nearest centre offering significant employment opportunities being

Coalville and Shepshed. The public transport provision, being on a two hourly basis and not extending into the evening hours, would also restrict opportunities to access services other than via the private car. As a consequence, in terms of the social role as defined by the NPPF, accessibility to a range of local services for residents of the proposed housing development would be severely limited.

Reference is made to application reference 14/00574/OUTM for a residential development of 16 dwellings at Dawsons Road, Osgathorpe where a contribution was secured towards the purchase and subsequent upkeep of the Storey Arms Public House, and its further expansion in order to provide additional services. This application was approved by the Planning Committee at its meeting on the 7th October 2014. Whilst a reserved matters application is currently being progressed (ref: 15/01214/REMM) in accordance with the terms of the outline permission, limited weight is attached to any social sustainability benefits that particular development would bring to the settlement of Osgathorpe. This position is taken as there are currently no guarantees that the actual contributions secured would result in a suitable level of service provision being available which would increase the social sustainability credentials of the settlement.

Overall, therefore, the lack of ability to access a basic level of services for future residents would weigh heavily against the development being socially sustainable.

From an environmental sustainability point of view it is noted that the site is located within an Area of Particularly Attractive Countryside (APAC) which the adopted Local Plan confirms is considered to represent the most significant and important rural landscape area locally. This designation is subject to saved Policy E22 which states the following:-

"Development will not be permitted which would adversely affect or diminish the present open character and attractive rural landscape and/or be detrimental to natural habitats and scientific interest of the following Areas of Particularly Countryside, identified on the Proposals Map:

- (a) *Land to the east of Greenhill, Thringstone, Whitwick and Worthington, including part of Charnwood Forest;*
- (b) *Land in the vicinity of Staunton Harold; and*
- (c) *Land at Gospall's Wharf, Snarestone.*

Built development will be permitted only where it is appropriate to the established character of the designated area in terms of scale, siting, detailed design and materials of construction.

In addition the District Council will seek to:

- (a) *Undertake or encourage measures to protect and enhance the landscape, wildlife, habitat, archaeological and scientific interest of the designated area, including planting, nature conservation measures and the provision of nature interpretation and appreciation facilities;*
- (b) *Secure the positive management of land within the designated areas to enhance and maintain its wildlife habitat and features of scientific and archaeological interest;*
- (c) *Protect and conserve particular features which contribute to the special character of the designated areas, such as dry stone walls in the Charnwood Forest."*

In many respects this policy would be supported by the principles of Paragraph 17 of the NPPF and the ministerial letter from Brandon Lewis of the 27th March 2015 urging Inspectors to protect the intrinsic beauty of the countryside.

The land slopes upwards from north-east to south-west as well as from north-west to south-east. It is therefore considered that the provision of nine dwellings, and their associated built infrastructure, within the APAC would diminish the present open character of the area and result in an urbanising impact, therefore conflicting with the intentions of Policy E22 of the adopted Local Plan. However, in the Greenhill Road decision the Inspector concluded that Policy E22 of the adopted Local Plan was out of date due to it not being consistent with Paragraphs 109 and 113 of the NPPF rather than the policy itself restricting the supply of housing. Whilst the Local Authority does not necessarily agree with that position a more recent Court of Appeal Judgement (*Richborough Estates v Cheshire East Borough Council & Secretary of State*) has concluded that those environmental policies which seek to resist the delivery of housing should not be considered up-to-date if the Council cannot demonstrate a five-year supply of housing sites (which on the basis of the Greenhill Road appeal decision the Council cannot at this present time) as they would be inconsistent with the aims of Paragraph 49 of the NPPF. On the basis of the Court of Appeal Judgement Policy E22 would be a policy which would restrict the supply of housing and the weight afforded to it should therefore be reduced accordingly.

Paragraph 17 of the NPPF highlights that planning decisions should seek to "*recognise the intrinsic character and beauty of the countryside.*" The environmental role should also contribute to protecting and enhancing our natural, built and historic environment; and, as part of this, help to improve biodiversity, use natural resources prudently, minimise waste and pollution and mitigate and adapt to climate change including moving to a low carbon economy.

In terms of the built development being proposed the layout shows that the dwellings would be located in close proximity to Main Street and would extend across the entire gap which exists between the telephone exchange and No. 71 (The Old Surgery) Main Street with a hedgerow being retained to the site frontage, and significant tree landscaping being proposed to the south-western boundary. Whilst the development would result in a physical intrusion into the rural environment, and result in the loss of a natural break in the street frontage along the south-western side of Main Street, it is acknowledged that the site is bounded by built forms to the north-west, south-east and north-east and would have less of a projection into the rural environment than no. 71 Main Street. In this context the development would not have a significantly adverse impact on the 'openness' of the rural environment nor would the dwellings be 'isolated' due to their integration with existing built forms.

Whilst it would not be a sufficient reason to resist the proposed development on the basis that the dwellings would be built on a greenfield site, it is considered, taking into account the views of the Planning Inspectorate relating to an appeal decision at Tea Kettle Hall in Diseworth (APP/G2435/A/13/2208611), that due to the distance from shops, services and employment opportunities, as well as the severely limited bus service through the village, that the private car would be the most likely mode of transport for the majority of trips to and from the proposed dwellings. This would involve lengthy trips in an unsustainable mode of transport for shopping, work and leisure purposes which would conflict with the environmental aims of the NPPF which seek to use natural resources prudently and move towards a low carbon economy.

Although the development would be constructed on agricultural land this land is Grade 3 Agricultural Land and as such would not be considered the best and most versatile agricultural land (defined as Grades 1, 2 and 3a of the Agricultural Land Classification) in the context of Paragraph 112 of the NPPF.

In conclusion, any support warranted to the economic benefits of the development, which would be strictly limited to the construction of the dwellings and the social aspects of providing three

affordable housing units, would be heavily outweighed by the negative social and environmental impacts associated with future occupants being socially isolated from basic services, and their heavy reliance on the private car and thus, not supporting the move towards a low carbon economy. As a result of this, the development would be unacceptable in principle and would not represent sustainable development. The fact that the Council is unable to demonstrate a five year housing land supply is also not considered to be of relevance if the development itself is considered to conflict with the key principles of the NPPF as highlighted above.

Means of Access and Transportation

Access and layout are included for approval at this stage and the plans indicate that an existing gap within the hedgerow would be widened to allow an access road with a width of 5.0 metres to be created. Internally within the development an access road with relevant turning head would run parallel to Main Street in order to provide access to Plots 5 - 9 with another access road, with relevant turning head, running perpendicular to Main Street in order for access to be achieved to Plots 1 - 4. To the south-east of the access point a 2.0 metre wide footpath link would be created, with a dropped kerb, in order for pedestrians to cross the road safely onto the north-eastern side of Main Street.

In reviewing the submitted information it is noted that the County Highways Authority has raised an objection to the application on the basis of sustainability, which has been considered above, but has raised no objections to the application in respect of highway safety implications.

The vehicular access would have visibility splays of 2.4 metres by 43.0 metres and is located on the side of Main Street where no pedestrian movements would be undertaken, given that only a grass verge exists on this side of the highway. Taking into account the comments of the Highways Authority it is considered that the proposed vehicular access would be acceptable and would not cause significant highway safety implications by virtue of the level of visibility achieved in both directions being acceptable. Whilst concerns have been raised, by third parties and the Parish Council, in respect of the problems associated with on-street parking problems in the area and the inadequacy of the highway impact statement, the presence of vehicles in the highway and information contained within the highway impact statement have not been identified as particular concerns to the County Highways Authority. In any case, any vehicle exiting the development site would have a sufficient level of visibility in both directions to ensure that an adequate assessment of the movement of vehicles in the highway could be undertaken before exiting the site. It is also noted that there are no parking restrictions in the highway which would prevent the existing on-street parking, or any future on-street parking, which occurs and the presence of vehicles obstructing private drives or junctions would be a matter which would need to be addressed by the Police.

With regards to the adequacy of the highways network in and around Osgathorpe being able to 'cope' with a potential increase in vehicular movements it is noted that the County Highways Authority has raised no objections to the development on this basis, and the lack of control over the movement of vehicles throughout the village means that these roads could be subjected to an increase in vehicular movements with or without the development. Given that Paragraph 32 of the NPPF outlines, amongst other things, that "*development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe,*" it is considered that the above conclusions outline that a residential development on the site would not have a severe impact on highway safety as to justify a refusal of the application. In these circumstances the development would also accord with Paragraph 32 of the NPPF and Policy T3 of the adopted Local Plan.

The provision of a pedestrian footway from the site entrance for a length of 36.0 metres, to connect the residents of the new development with the paved footway on the north-eastern side of Main Street, would also improve the highway safety merits of the scheme by ensuring future residents would be able to safely cross the road at a point other than the site entrance.

In respect of off-street parking requirements it is noted that two bedroom properties should have a minimum of one off-street parking space, three bedroom properties should have a minimum of two off-street parking spaces and four bedroom properties should have a minimum of three off-street parking spaces. The indicative elevations show that all properties would benefit from an integral or detached garage and it could be ensured, at the reserved matters stage, that the internal dimensions of the garages were the minimum required by the County Highways Authority (6.0 metres in length by 3.0 metres in width) in order to be considered sufficient as an internal parking space. Externally the layout shows that suitable dimensions of parking spaces, as well as a sufficient number of spaces, would be provided per dwelling to ensure compliance with Paragraph 39 of the NPPF and Policy T8 of the adopted Local Plan.

Density

The application site area is 0.59 hectares and the provision of nine dwellings on the site would result in a density of 15.25 dwellings which would be significantly below the 30 dwellings per hectare advised by saved Policy H6 of the adopted Local Plan in other locations (other than the main settlements and those well served by public transport and accessibility to services and facilities).

Although this density would fall below that advised in Policy H6, this policy also identifies that it is important to factor into any assessment the principles of good design as well as green space and landscaping requirements. In the circumstances that the Local Authority values good design in its approach to residential development and there would be a need to retain and reinforce the landscaping of the site, it is considered that the density proposed would represent an efficient use of the land in this instance. In these circumstances the proposal would not substantially conflict with the principles of Policy H6 as to warrant a refusal of the planning permission.

Neighbours and Future Occupants' Amenities

It is noted that details of the layout and scale have been submitted for approval at this stage with the nearest residential properties being No. 71 Main Street, located to the south, and the properties on the north-eastern side of Main Street being Nos. 84 - 110 (even nos. inclusive).

In respect of the issues raised by residents in respect of overlooking implications it is noted that the position of windows, and what rooms they would serve, would not be known, until such time as the appearance was submitted under any subsequent reserved matters application. In any event the layout shows that the Plots 5 - 9 would be set a minimum of 22.0 metres from the edge of the highway on the north-eastern side of Main Street, thereby meaning the distances between elevations would be in excess of this distance, and as a result it would be very difficult to sustain that the development would result in adverse overlooking impacts given that such views onto the front amenity area and towards the front elevations of the properties is readily achieved from the public domain. The north-eastern (side) elevation of Plot 1 would be set 17.0 metres from the edge of the highway on the north-eastern side of Main Street and given that this property would be single storey, as well as the fact that a 1.6 metre high hedge would be retained to the roadside boundary, it is considered that no adverse overlooking impacts would arise. The amenities of No. 71 Main Street would also not be adversely impacted on by overlooking impacts given that over 22.0 metres would exist between Plot 9 and the north-

eastern corner of No. 71 Main Street.

Whilst the land levels on the south-western side of Main Street are higher than those on the north-eastern side the difference is not significant and given that the heights of the proposed dwellings would range between 5.9 metres and 6.9 metres it is considered that no adverse overbearing or overshadowing impacts would arise particularly as the finished ground levels and floor levels of the dwellings could be secured via the imposition of a planning condition.

Concerns have been expressed that the development will result in an increase in noise from a rise in vehicular movements and activity on the site. However it is considered that whilst the provision of a residential scheme along Main Street would increase the volume of traffic, this increase would not be significantly detrimental to amenities to justify a reason for the refusal of the application. This view is taken given that there are no controls in place to restrict the movement of vehicles along Main Street and the fact that the vehicular movements of the future occupants of the scheme would be similar to those of existing residents. The development relating to the provision of nine dwellings would also not be considered a noisy use, and as such it would be difficult to justify a refusal of the application on the basis that the tranquillity of the area would be adversely affected by the introduction of new residents. It is also noted that the Council's Environmental Protection team have raised no objections to the development on noise grounds.

In respect of lighting it is considered that a condition could be imposed on any consent granted for any external lighting for the development, alongside the access roads, to be agreed with the Local Planning Authority to ensure that it is subtle. No controls would be applicable to the lighting installed on the individual dwellings given that planning permission is not required to install external lighting which is also true for any street column lighting the County Highways Authority may wish to install in the public highway.

With regards to future amenities it is considered that the proposed layout identifies that, subject to the position of the windows being agreed, all properties would establish an acceptable level of amenity for future residents. The landscaping scheme for the development would also be agreed at a later date and at this time it could be ensured that such landscaping would be appropriate in maintaining an acceptable level of private amenity space.

The issues raised in respect of the loss of a view would not constitute a material planning consideration and as such does not warrant further deliberation in the assessment of the application.

Overall the proposed development would not conflict with the principles of Paragraph 123 of the NPPF or Policy E3 of the adopted Local Plan.

Impact on the Character and Appearance of the Landscape and Streetscape

The need for good design in new residential development is outlined not only in Local Plan Policies E4 and H7 but also Paragraphs 57, 60 and 61 of the NPPF with Paragraph 61 outlining that *"although visual appearance and the architecture of individual buildings are very important factors, securing high quality design goes beyond aesthetic considerations. Therefore decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment."*

The application site slopes modestly upwards from north-east to south-east and from north-west to south-east with a 1.6 metre high hedge currently defining the north-eastern boundary of the

site with Main Street. Residential properties lie to the north-east and south-east (on Main Street) with two properties (Craig Y Don (no. 2), Ashby Road and no. 4 Ashby Road) being situated to the west. A telephone exchange is situated to the north-west with the land to the south-west being predominately open countryside. Properties within the surrounding area are a mix of two-storey detached and semi-detached types.

It is noted that appearance and landscaping are included as matters to be considered at a later stage although the scale and layout are for approval at this stage. Properties on the north-eastern side of Main Street are situated close to the highway and present their principal elevations to the highway whilst the south-eastern side is characterised by dwellings which vary in relation to their proximity to the highway but still present their principal elevations to the highway (the exception being No. 71 Main Street). The proposed layout shows that the dwellings would mainly face onto Main Street (Plots 5 - 9) which would be consistent with the character of the area. Whilst Plots 1 - 4 would be perpendicular to the highway this is not considered to be sufficiently detrimental to the character of the area as to warrant a refusal of the development given the presence of the telephone exchange, which is set back from Main Street, and the fact that Orchard Close provides residential development which would be perpendicular to the principal highway of Main Street.

Whilst dwellings in the immediate area are predominately two-storey the provision of dwellings which are single storey and two-storey (with habitable accommodation in the roof slope) would not be sufficiently detrimental to the character and appearance of the wider area. This is considered to be the case given that they would not be located within a streetscape whereby such an arrangement would appear 'out of place' due to the sites relationship with the telephone exchange, and the fact that the arrangement of the dwellings on the site (single storey dwellings leading up to the two-storey (with habitable accommodation in the roof slope) dwellings) would build upwards to the two-storey dwellings which currently exist on the south-western side of Main Street. It is also noted that it is important to plan for a mixture of different house types which will meet the needs of all of the community, which the development would achieve. It is also considered that the overall floor areas of the dwellings would be consistent with the character of the area and overall, therefore, the scale of the development would be appropriate.

Public footpath N6 lies to the south of the site and it is considered that the position of the dwellings would have no greater impact on views established from this footpath given that such views currently include the dwellings on the north-western side of Main Street as well as the telephone exchange.

The appearance of the dwellings would be agreed at the reserved matters stage and it is considered that at this point an appropriate design could be achieved which would accord with the Council's current design agenda by responding to the positive characteristics of dwellings within the area.

Overall, the development is considered to accord with Paragraphs 57, 60 and 61 of the NPPF and Policy E4 of the adopted Local Plan. The specific requirements of Policy H7 of the adopted Local Plan would be achieved through any reserved matters application submitted for the detailed appearance of the dwellings.

Viability of the Development

A request has been made for S106 contributions relating to the provision of affordable housing. This request has been assessed against the equivalent legislative tests contained within the Community Infrastructure Levy Regulations 2010 ("CIL") as well as Paragraphs 203 and 204 of

the NPPF which outline that planning obligations should be:

- necessary to make the proposed development acceptable in planning terms;
- directly related to the proposed development; and
- fairly and reasonably related in scale and kind to the proposed development.

Equivalent legislative tests are contained within the Community Infrastructure Levy Regulations 2010 ("CIL").

Affordable Housing

The Affordable Housing SPD indicates that on all development sites providing five or more properties a requirement of 30% affordable housing would be required with the Council's preferred position for this to be provided on site.

The Council's Strategic Housing Team have been consulted on the application and have advised that an affordable housing requirement for 30% affordable housing would be applicable, with it being noted that as a development of nine dwellings there would be a need for three affordable properties to be provided on the site in order to be policy compliant.

It is identified within the supporting information that Plots 1 - 3 would be provided as affordable housing which would be three single storey two bedroomed properties and this mix and location is considered satisfactory to the Affordable Housing Enabler subject to a tenure split of 70% rented and 30% intermediate home ownership being secured. The Affordable Housing Enabler would also be supportive to a village connection criteria being attached to the allocation of the affordable properties.

In the circumstances that the approach taken by the developer in respect of affordable housing is considered acceptable to the Affordable Housing Enabler, the proposed development would accord with Policy H8 of the adopted Local Plan along with a relevant Section 106 Agreement securing the affordable housing contribution. The imposition of a 'village connection criteria' into the Section 106 Agreement would also ensure that the development could be offered to existing residents of Osgathorpe to assist in meeting their housing needs.

Other Contributions

The Parish Council have requested that the development should contribute towards village amenities and village facilities, however, no justification has been provided as to why the proposed development would severely impact on such facilities. In the absence of such justification it cannot be concluded that such a request would be CIL compliant or that the development would be directly related to the perceived impacts on village amenities and village facilities. On this basis such a request would fail the terms set out in Paragraphs 203 and 204 of the NPPF.

Ecology

The County Council Ecologist has assessed the submitted ecology report and has raised no objections given that there was no evidence of protected species on the site, and that the arable land would be unlikely to support such species. It was noted by the County Council Ecologist that the roadside hedge would be of local value and conditions should be imposed to ensure that roadside hedge is retained and that any other vegetation to be removed is undertaken outside the bird nesting season (March - July inc).

Subject to the imposition of such conditions it is considered that protected species would not be

a constraint on the development and as such it would be compliant with Paragraph 118 of the NPPF and Circular 06/2005 - Biodiversity and Geological Conservation.

Landscaping

As the application site is situated within the National Forest a strong landscaping scheme would be a necessity for the development with Policy E7 of the adopted Local Plan seeking to ensure that existing vegetation is retained and enhanced. The only vegetation related to the site is a 1.6 metre high hedgerow which lies along the north-eastern (front) boundary, although mature trees do exist within the telephone exchange site in close proximity to the north-western (side) boundary of the application site. The submitted layout shows that the dwellings, and internal access roads, have been positioned so as to not impact on the root protection areas of the vegetation (trees and hedges) and this would ensure that their longevity would not be compromised particular given that the roadside boundary hedge has local ecological value.

The plans also show that substantial tree planting would be undertaken on the site although it is questioned whether the density of planting suggested would integrate well into the development proposed, or ultimately survive given the close knit planting suggested. Given that planting is a reserved matter is considered that a suitable landscaping scheme could be secured at a later date which would be appropriate for the context of the site, as well as the development proposed.

In the circumstances that existing vegetation would not be compromised by the layout proposed, and a suitable landscaping scheme could be secured at the reserved matters stage, it is considered that the development would accord with the aims of Policies E7 of the adopted Local Plan.

Flood Risk and Drainage

The site lies within Flood Zone 1 as defined by the Environment Agency as having a low probability of flooding. As the site does not exceed 1 hectare in size, there is no formal requirement to provide a Flood Risk Assessment (FRA) or formally consult the Environment Agency.

Severn Trent Water has been consulted on the application and they have identified that they have no objections to the development in respect of the drainage solutions proposed. The Lead Local Flood Authority have also provided guidance on their standing advice protocol and how their consent would be required for any works which would affect flows into a ditch.

A drainage assessment report has been submitted in support of the application and this indicates that in respect of surface water drainage an existing drainage ditch at the site frontage would be utilised with a minimum peak flow of five litres per second (to match greenfield run off rates) with this being controlled by a flow control chamber. Attenuation to the flows would be provided in the form of a geocellular storage tank and semi-permeable block paving to all car parking spaces. The capacity of the storage tank would also include for excess volumes generated by the 100 year storm event, plus a 30% allowance for climate change. It would be necessary for the Lead Local Flood Authority (Leicestershire County Council) to grant consent for discharge of surface water run-off to the ditch (via ordinary watercourse consent) which would be a separate legislative process to that of planning.

Surface water treatment is to be provided in the form of catchpit manholes, trapped gullies and semi-permeable paving with 210 litre water butts being fitted within each property to encourage

rainwater recycling. It is proposed that a private management company would be responsible for the management of the surface water drainage system, collectively with any residents of the properties. All finished floor levels of the dwellings would be 150mm above existing ground levels to ensure that they are not affected by pluvial (rainfall) sources of flooding with overland flow paths diverting rainwater away from buildings and principal points of access/egress.

In the context that consent would be required from the Lead Local Flood Authority for the discharge of surface water run-off to the ditch within Main Street, it could be ensured that the scheme approved would not further exacerbate any localised flooding impact with the ditch being within the ownership of Leicestershire County Council given that it is within the highway (as such they would be responsible for its ongoing maintenance). Building regulations would also be responsible for agreeing the surface water drainage solutions for each individual property which would be separate to that of the planning process and they would ensure that flooding implications are not further exacerbated.

In respect of foul water discharge, this would be directed to the existing foul water sewer located within Orchard Close subject to the approval of Severn Trent Water which again would be carried out under a separate legislative process to that of planning.

Overall, therefore, the development would not conflict significantly with the intentions of Paragraph 103 of the NPPF.

Archaeology

The County Council Archaeologist has raised no objections and does not consider that any archaeological conditions would need to be imposed on any consent granted. In the circumstances that archaeology would not act as a constraint on the development it is considered that it would accord with Paragraph 141 of the NPPF.

Other Matters

The Council's Contaminated Land Officer has assessed the application and has raised no objections to the proposal, subject to the imposition of a condition on any consent granted relating to the submission of contaminated land reports due to the proximity of the site to the telephone exchange and potential presence of made land. It is considered that such a condition is reasonable and its imposition will ensure that the development accords with Paragraphs 120 and 121 of the NPPF.

Whilst representations have been received identifying that the development would be contrary to the Osgathorpe Village Design Statement, it is noted that this document has not been formally adopted by the Council as a supplementary planning document, and as such, no weight can be given to the aspirations of this document in the determination of the application.

Although a representation has been received outlining that the proposal would conflict with Article 8 (Right to respect for private and family life) of the Human Rights Act 1998, which on the basis of the decision in *Britton v SOS* outlined that Article 8 would not only encompass the home but also the surroundings, no substantive evidence has been provided to demonstrate how the development would result in such an impact.

The Sweet and Maxwell Encyclopaedia of Planning Law and Practice summarised the position of Article 8 in planning decisions in September 2002 by stating: -

"The courts have proved distinctly unhappy about being invited to uphold Article 8 claims on a prospective basis on behalf of objectors to the grant of planning permission."

In the case of *Hatton v UK* heard by the Grand Chamber of the European Court of Human Rights (2003), it was held that Article 8 grounds did not amount to sufficient justification to refuse an application.

In concluding this matter it was highlighted that the *"Courts seem to feel that the whole process of planning decisions should not be overturned just because of the effects of particular decisions on householders who already have rights to make representations to a democratic body within the planning system."*

On the basis, it is considered that in absence of substantive evidence to demonstrate the degree of harm which would occur as a result of the development proposals it is considered that the proposal would not result in a conflict with the Human Rights Act 1998.

Conclusion

The report above indicates that the site is a greenfield site outside Limits to Development, is located within an Area of Particularly Attractive Countryside and that Osgathorpe is not a sustainable settlement.

Policies S3 and E22 of the adopted North West Leicestershire District Council Local Plan ("the Local Plan") cannot be relied upon to justify a refusal of the application, given that the Council cannot demonstrate a five year housing land supply. Whilst this is the case, the release of the land for residential development would not accord with the environmental sustainability strand of the NPPF as outlined at Paragraph 7, given that future occupants would be heavily reliant on the private car to access basic services, an unsustainable form of transport, and would therefore not support the approach to a low carbon economy. Given these circumstances the proposed development of the site is unacceptable in principle and would conflict with the environmental strand of sustainability.

In addition, Osgathorpe would not be considered a sustainable settlement given the lack of services within the area. As such the development of the site would not provide suitable access to an appropriate level of services which would contribute towards people's day to day needs. As a result of the development would also conflict with the social strand of sustainability enshrined within the NPPF again outlined at Paragraph 7.

Any limited contribution this development would make towards the Council's five year housing land supply, as well as the provision of three affordable housing units, are also not considered sufficient grounds to outweigh such conflicts which exist in respect of the key principles of the NPPF as detailed above.

It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE, for the following reason;

- 1 Osgathorpe is a settlement which benefits from few services or an appropriate level of public transport provision, and as such would not be considered a sustainable settlement for the scale of the development proposed. The application site is on unallocated greenfield land located outside the Limits to Development of Osgathorpe, as defined on

the Proposals Map to the North West Leicestershire Local Plan, and is also within an Area of Particularly Attractive Countryside. The National Planning Policy Framework (NPPF) outlines that, socially, development should provide the supply of housing required to meet the needs of present and future generations with accessible local services and the support of their health, social and cultural wellbeing. Environmentally development should contribute to protecting and enhancing our natural, built and historic environment; and, as part of this, help to improve biodiversity, use natural resources prudently, minimise waste and pollution and mitigate and adapt to climate change including moving to a low carbon economy. Whilst a justification to refuse the development could not be substantiated against Policies S3 and E22 of the adopted North West Leicestershire Local Plan (Local Plan), it is considered that the development would conflict with the environmental strand of sustainability given that future occupants would be heavily reliant on the private car to access basic services, an unsustainable form of transport, and therefore would not support the approach to a low carbon economy. Insufficient local services to serve the basic needs of future residents would also lead to such residents being socially isolated. An approval, therefore, would be contrary to the environmental and social strands of sustainability enshrined within the NPPF.

Notes to applicant

- 1 Outline planning permission has been refused for this proposal for the clear reasons set out in this decision notice. It is considered that the application is not acceptable in principle and as such the Local Authority has not entered into dialogue to seek any amendments. The Local Planning Authority has therefore complied with the requirements of the National Planning Policy Framework (Paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.